

HB0548



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB0548

Introduced 1/27/2005, by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

415 ILCS 5/41

from Ch. 111 1/2, par. 1041

Amends the Environmental Protection Act. Makes a technical change to a Section concerning judicial review.

LRB094 05994 RSP 36051 b

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 changing Section 41 as follows:

6 (415 ILCS 5/41) (from Ch. 111 1/2, par. 1041)

7 Sec. 41. Judicial review.

8 (a) Any party to a Board hearing, any person who filed a
9 complaint on which a hearing was denied, any person who has
10 been denied a variance or permit under this Act, any party
11 adversely affected by a final order or determination of ~~the~~ the
12 Board, and any person who participated in the public comment
13 process under subsection (8) of Section 39.5 of this Act may
14 obtain judicial review, by filing a petition for review within
15 35 days from the date that a copy of the order or other final
16 action sought to be reviewed was served upon the party affected
17 by the order or other final Board action complained of, under
18 the provisions of the Administrative Review Law, as amended and
19 the rules adopted pursuant thereto, except that review shall be
20 afforded directly in the Appellate Court for the District in
21 which the cause of action arose and not in the Circuit Court.
22 Review of any rule or regulation promulgated by the Board shall
23 not be limited by this section but may also be had as provided
24 in Section 29 of this Act.

25 (b) Any final order of the Board under this Act shall be
26 based solely on the evidence in the record of the particular
27 proceeding involved, and any such final order for permit
28 appeals, enforcement actions and variance proceedings, shall
29 be invalid if it is against the manifest weight of the
30 evidence. Notwithstanding this subsection, the Board may
31 include such conditions in granting a variance and may adopt
32 such rules and regulations as the policies of this Act may

1 require. If an objection is made to a variance condition, the
2 board shall reconsider the condition within not more than 75
3 days from the date of the objection.

4 (c) No challenge to the validity of a Board order shall be
5 made in any enforcement proceeding under Title XII of this Act
6 as to any issue that could have been raised in a timely
7 petition for review under this Section.

8 (d) If there is no final action by the Board within 120
9 days on a request for a variance which is subject to subsection
10 (c) of Section 38 or a permit appeal which is subject to
11 paragraph (a) (3) of Section 40 or paragraph (d) of Section
12 40.2 the petitioner shall be entitled to an Appellate Court
13 order under this subsection. If a hearing is required under
14 this Act and was not held by the Board, the Appellate Court
15 shall order the Board to conduct such a hearing, and to make a
16 decision within 90 days from the date of the order. If a
17 hearing was held by the Board, or if a hearing is not required
18 under this Act and was not held by the Board, the Appellate
19 Court shall order the Board to make a decision within 90 days
20 from the date of the order.

21 The Appellate Court shall retain jurisdiction during the
22 pendency of any further action conducted by the Board under an
23 order by the Appellate Court. The Appellate Court shall have
24 jurisdiction to review all issues of law and fact presented
25 upon appeal.

26 (Source: P.A. 87-1213; 88-1; 88-464; 88-670, eff. 12-2-94.)